

AMENDED IN SENATE JUNE 16, 2005

AMENDED IN ASSEMBLY MAY 27, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 888

Introduced by Assembly Member De La Torre

February 18, 2005

An act to *amend Section 43018 of, and to add Article 9* (commencing with Section 40550) to Chapter 5.5 of Part 3 of Division 26 of, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 888, as amended, De La Torre. Air pollution: ~~South Coast Air Quality Management District; railroad~~ equipment emissions.

(1) Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law generally designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law, the Lewis-Presley Air Quality Management Act, designates the South Coast Air Quality Management District (south coast district) as the sole and exclusive authority within the South Coast Air Basin with the responsibility for comprehensive air pollution control. Existing law, the federal Clean Air Act, prohibits any state from adopting or enforcing any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines, but requires the Administrator of the federal Environmental Protection Agency to waive that prohibition, or authorize a state to

adopt and enforce standards relating to motor vehicles or motor vehicle engines or to nonroad vehicles or nonroad engines, if a state determines that its standards are at least as protective of human health as the federal standards.

This bill would authorize the south coast district to establish a railyard equipment emission reduction program by permitting the south coast district to adopt regulations requiring the owner or lessee of any heavy-duty motor vehicle, nonroad engine, or nonroad vehicle to install retrofit controls or replace existing equipment with clean technologies to reduce emissions of air contaminants to the maximum extent feasible, if that vehicle or engine operates substantially in a railyard within the south coast district, as determined by the south coast district. The bill would specify that a regulation adopted pursuant to the bill that is applicable to motor vehicles, shall not be implemented until January 1, 2007.

The bill would also require the State Air Resources Board to submit any regulations adopted by the south coast district to the federal Environmental Protection Agency for a waiver or authorization, unless the state board makes certain findings.

This bill would preclude the south coast district from adopting any regulation within the scope of preemption established by federal regulations.

This bill would declare that if any of its provisions are held invalid, that invalidity shall not affect the validity of other provisions of the bill to the extent the provisions are severable.

(2) Existing law requires the state board to achieve the maximum degree of emission reduction possible from vehicular and other mobile sources in order to accomplish the attainment of the state standards at the earliest practicable date.

This bill would require the state board, not later than January 1, 2007, to adopt regulations that are necessary, cost-effective, and technologically feasible in order to achieve a reduction in the actual emissions from cargo handling equipment and off-road diesel equipment.

~~(2)~~

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Federal and state health-based ambient air quality
4 standards for ozone and particulates are exceeded regularly and
5 by a wide margin in the South Coast Air Basin. The South Coast
6 Air Basin is one of two areas in the United States designated as
7 extreme nonattainment for the National Ambient Air Quality
8 Standard for ozone. Attaining this standard will require
9 extraordinary efforts by federal, state, and local regulatory
10 authorities working in concert.

11 (2) The federal Environmental Protection Agency recently
12 adopted more stringent 8-hour ozone and PM2.5 particulate
13 standards that will require even greater emission reductions in the
14 South Coast Air Basin. The South Coast Air Basin is designated
15 “Severe 17” for the 8-hour ozone standard, the worst in the
16 nation.

17 (3) Air pollution from rail yard equipment, including
18 yard-tractors, hostlers, cranes, forklifts, and other mobile source
19 equipment primarily fueled with diesel fuel, contribute to
20 conditions that exceed federal and state ozone and particulate
21 standards in the South Coast Air Basin.

22 (4) Diesel exhaust is designated as a toxic air contaminant and
23 accounts for over 70 percent of the cancer risk from air
24 contaminants in southern California. Communities near rail
25 yards, including, but not limited to, low-income communities and
26 communities of minority populations, are adversely impacted by
27 toxic exhaust from diesel-powered rail yard equipment. In
28 October 2004, the state board released a study of cancer risks in
29 the vicinity of a rail yard in Roseville, California, which
30 estimated that persons in the vicinity of the rail yard are exposed
31 to diesel exhaust at a level that creates a cancer risk of 500 in one
32 million. Emissions from rail yards in the south coast district
33 contribute to regional cancer risks that have been estimated by

1 the district to average 1,400 in a million, with higher risk levels
2 in the vicinity of transportation sources.

3 (5) Emissions from equipment within rail yards are expected
4 to rise as train traffic increases due to increases in international
5 trade. In order to attain state and federal standards for ozone and
6 particulates, as well as to reduce toxic air contaminants, it is
7 necessary that emissions from rail yard equipment be further
8 controlled.

9 (6) Existing state law authorizes the south coast district to
10 adopt regulations controlling emissions from nonvehicular
11 sources, including nonroad engines or vehicles, and authorizes
12 the California Air Resources Board to adopt regulations
13 controlling emissions from vehicular sources. Federal law
14 requires that a waiver or authorization be obtained from the
15 federal Environmental Protection Agency for certain standards or
16 other requirements relating to the control of emissions from
17 specified engines and vehicles.

18 (7) New technologies to reduce diesel particulate and ozone
19 precursor emissions at rail yards are available and are
20 cost-effective. The emission reduction technologies include low
21 sulfur diesel fuel, particulate matter traps, NO_x reduction
22 catalysts, emulsified diesel fuel, and other technologies.

23 (8) In 1998, the state board entered into a memorandum of
24 understanding with the Burlington Northern and Santa Fe
25 Railway Company, and the Union Pacific Railroad Company,
26 under which the railroads agreed to utilize by 2010 locomotives
27 in the South Coast Air Basin that meet a specified fleet average
28 emissions limitation. The memorandum of understanding does
29 not contain provisions pertaining to rail yard equipment.

30 (9) The memorandum of understanding referred to in
31 paragraph (8) provides that the railroads may terminate the
32 agreement in the event the state or any political subdivision takes
33 any action to establish any requirement applicable to locomotives
34 or locomotive engines that is within the scope of the preemption
35 established in the Emission Standards for Locomotives and
36 Locomotive Engines adopted by the federal Environmental
37 Protection Agency on April 16, 1998, as set forth in Parts 85, 89,
38 and 92 of Title 40 of the Code of Federal Regulations.

39 (10) The authorization in this act for establishment by the
40 south coast district of a rail yard equipment emission reduction

1 program does not include adoption by the district of a regulation
2 that would constitute a requirement applicable to locomotives
3 that is within the scope of federal preemption referred to in the
4 memorandum of understanding between the state board and the
5 participating railroads. It is therefore necessary to implement
6 legislation to authorize the South Coast Air Quality Management
7 District to implement a rail yard equipment emission reduction
8 program.

9 (b) It is the intent of the Legislature to provide authorization
10 for the South Coast Air Quality Management District to
11 implement a rail yard equipment emission reduction program.

12 SEC. 2. Article 9 (commencing with Section 40550) is added
13 to Chapter 5.5 of Part 3 of Division 26 of the Health and Safety
14 Code, to read:

15
16 Article 9. RAIL YARD EQUIPMENT EMISSION
17 REDUCTION PROGRAM
18

19 40550. The purpose of this article is to authorize the south
20 coast district to establish a rail yard equipment emission
21 reduction program, to decrease the emissions from equipment
22 within rail yards in the south coast district.

23 40551. (a) The south coast district may adopt regulations
24 requiring the owner or lessee of any heavy-duty motor vehicle,
25 nonroad engine, or nonroad vehicle to install retrofit controls or
26 replace existing equipment with clean technologies to reduce
27 emissions of air contaminants to the maximum extent feasible, as
28 determined by the south coast district, if that vehicle or engine
29 operates substantially in a rail yard within the south coast district,
30 as determined by the south coast district. A regulation adopted
31 pursuant to this section that is applicable to motor vehicles shall
32 not be implemented until January 1, 2007.

33 (b) The state board shall submit any regulations adopted by the
34 district pursuant to this section to the federal Environmental
35 Protection Agency for a waiver or authorization pursuant to
36 subdivision (b) or (e), as applicable, of Section 7543 of Title 42
37 of the United States Code, if the south coast district board makes
38 the determinations required by those subdivisions, unless the
39 state board finds, based on evidence presented at a public
40 hearing, that either of the following apply:

1 (1) The proposed waiver or authorization is unnecessary in
2 order for the south coast district to implement the regulations.

3 (2) The proposed waiver or authorization cannot lawfully be
4 granted by the federal Environmental Protection Agency, and no
5 actions could be taken by the state board that would allow the
6 grant of that waiver or authorization.

7 The south coast district shall reimburse the state board for any
8 costs incurred by the state board in implementing this
9 subdivision.

10 (c) For the purposes of this section, “motor vehicle,” “nonroad
11 engine,” and “nonroad vehicle” have the same meaning as those
12 terms are defined in Section 7550 of Title 42 of the United States
13 Code.

14 (d) This section does not apply to new locomotives or new
15 engines used in locomotives as those terms are used in Section
16 7543 of Title 42 of the United States Code.

17 (e) It is the intent of the Legislature that, in adopting
18 regulations pursuant to this section, the south coast district board
19 grant priority to reducing emissions of air contaminants from
20 vehicles and engines that contribute to air pollution problems, or
21 the public health risks associated with air contaminants,
22 including, but not limited to, airborne toxics and particulate
23 matter, in communities adjacent to rail lines within the south
24 coast district with the most significant exposure to air
25 contaminants, localized air contaminants, or both, including, but
26 not limited to, communities of low-income populations.

27 (f) The south coast district may not adopt or implement any
28 regulation pursuant to this section if the state board has adopted a
29 regulation achieving at least the same percentage amount of
30 emission reductions from the same sources.

31 40552. (a) The provisions of this article shall be effective
32 notwithstanding any other provision of law and to the extent
33 permissible under federal law. This article does not authorize the
34 south coast district to adopt any regulation that is within the
35 scope of preemption established by Section 7543 of Title 42 of
36 the United States Code.

37 (b) If any provision of this article or the application thereof to
38 any person or circumstance is held invalid, it is the intent of the
39 Legislature that the invalidity not affect other provisions or
40 applications of the article that can be given effect without the

1 invalid provision or application, and to this end the provisions of
2 this article are severable.

3 (c) This article does not limit the authority of the south coast
4 district established by preexisting law.

5 *SEC. 3. Section 43018 of the Health and Safety Code is*
6 *amended to read:*

7 43018. (a) The state board shall endeavor to achieve the
8 maximum degree of emission reduction possible from vehicular
9 and other mobile sources in order to accomplish the attainment of
10 the state standards at the earliest practicable date.

11 (b) Not later than January 1, 1992, the state board shall take
12 whatever actions are necessary, cost-effective, and
13 technologically feasible in order to achieve, not later than
14 December 31, 2000, a reduction in the actual emissions of
15 reactive organic gases of at least 55 percent, a reduction in
16 emissions of oxides of nitrogen of at least 15 percent from motor
17 vehicles. These reductions in emissions shall be calculated with
18 respect to the 1987 baseline year. The state board also shall take
19 action to achieve the maximum feasible reductions in
20 particulates, carbon monoxide, and toxic air contaminants from
21 vehicular sources.

22 (c) In carrying out this section, the state board shall adopt
23 standards and regulations ~~which~~ *that* will result in the most
24 cost-effective combination of control measures on all classes of
25 motor vehicles and motor vehicle fuel, including, but not limited
26 to, all of the following:

27 (1) Reductions in motor vehicle exhaust and evaporative
28 emissions.

29 (2) Reductions in emissions from in-use emissions from motor
30 vehicles through improvements in emission system durability and
31 performance.

32 (3) Requiring the purchase of low-emission vehicles by state
33 fleet operators.

34 (4) Specification of vehicular fuel composition.

35 (d) In order to accomplish the purposes of this division, and to
36 ensure timely approval of the district's plans for attainment of the
37 state air quality standards by the state board, the state board shall
38 adopt the following schedule for workshops and hearings to
39 consider the adoption of the standards and regulations required
40 pursuant to this section:

(1) Workshops on the adoption of vehicular fuel specifications for aromatic content, diesel fuel quality, light-duty vehicle exhaust emission standards, and revisions to the standards for new vehicle certification and durability to reflect current driving conditions and useful vehicle life shall be held not later than March 31, 1989. Hearings of the state board to consider adoption of proposed regulations pursuant to this subdivision shall be held not later than November 15, 1989.

(2) Notwithstanding Section 43830, workshops on the adoption of regulations governing gasoline Reid vapor pressure, and standards for heavy-duty and medium-duty vehicle emissions, shall be held not later than January 31, 1990. Hearings of the state board to consider adoption of proposed regulations pursuant to this subdivision shall be held not later than November 15, 1990.

(3) Workshops on the adoption of regulations governing detergent content, emissions from off-highway vehicles, vehicle fuel composition, emissions from construction equipment and farm equipment, motorcycles, locomotives, utility engines, and to the extent permitted by federal law, marine vessels, shall be held not later than January 31, 1991. Hearings of the state board to consider adoption of proposed regulations pursuant to this subdivision shall be held not later than November 15, 1991.

(e) *Not later than January 1, 2007, the state board shall adopt regulations that are necessary, cost-effective, and technologically feasible in order to achieve a reduction in the actual emissions from cargo handling equipment and off-road diesel equipment.*

(f) Prior to adopting standards and regulations pursuant to this section, the state board shall consider the effect of the standards and regulations on the economy of the state, including, but not limited to, motor vehicle fuel efficiency.

(f) ~~(g)~~
(g) The amendment of this section made at the 1989–90 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

~~SEC. 3.—~~

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school

1 district are the result of a program for which legislative authority
2 was requested by that local agency or school district, within the
3 meaning of Section 17556 of the Government Code and Section
4 6 of Article XIII B of the California Constitution.

O